



A BILL FOR AN ORDINANCE

RELATING TO REZONE LAND SITUATED AT MOANALUA, OAHU, HAWAII

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Zoning Map No. 6 Red Hill — Fort Shafter, Ordinance 86-109, is hereby amended as follows: Land situated at 830 Main Street, Honolulu, Oahu, Hawaii, hereinafter described, is hereby rezoned from the F-1 Military and Federal Preservation District to the R-5 Residential District. The boundaries of said District shall be described as shown on the map attached hereto, marked "Exhibit A" and made a part hereof, and further identified as Tax Map Key: 1-1-002: 031.

SECTION 2. A Unilateral Agreement marked "Exhibit B" is by reference incorporated herein and made a part hereof.



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE 17-9
BILL 49 (2016)

A BILL FOR AN ORDINANCE

SECTION 3. This ordinance shall take effect upon its approval

INTRODUCED BY:

(br)

DATE OF INTRODUCTION:

AUG 8 2016

Honolulu, Hawaii

Councilmembers

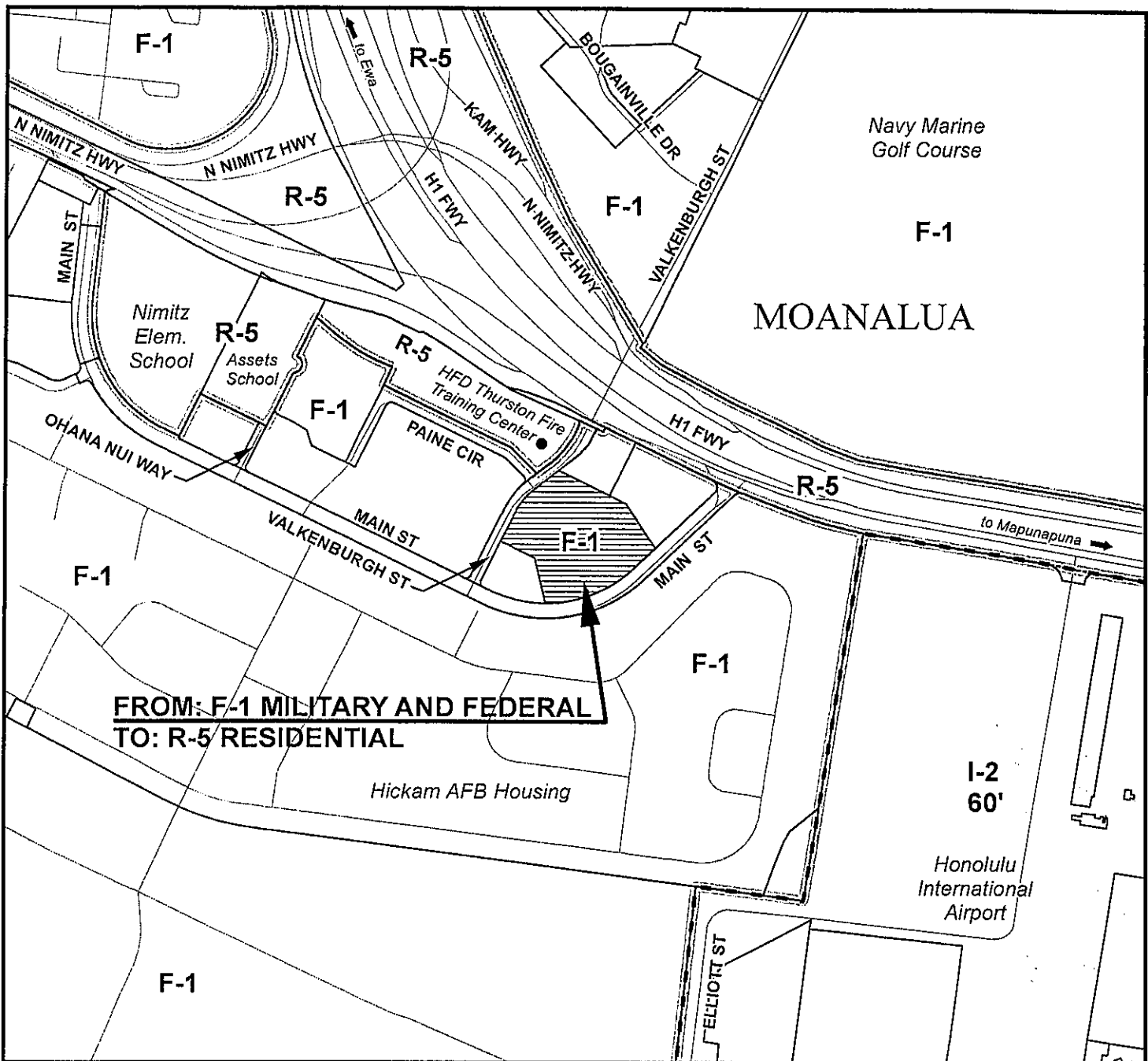
APPROVED AS TO FORM AND LEGALITY:

Don S. Kitaoka
Deputy Corporation Counsel

DON S. KITAOKA

APPROVED this 7th day of April, 2017.

Kirk Caldwell
KIRK CALDWELL, Mayor
City and County of Honolulu



PORTION OF
EXISTING ZONING MAP # 6
(RED HILL - FORT SHAFTER)

Land situated at 830 Main Street in an area known as Ohana Nui of the Joint Base Pearl Harbor-Hickam (JBPHH) military installation, approximately 439 feet from the intersection of Main Street and Valkenburgh Street and approximately 0.5 miles west of Honolulu International Airport.

APPLICANT:	HOLY FAMILY CATHOLIC ACADEMY
APPLICANT TMK:	1-1-002: 031
FOLDER NO.:	2016/Z-3
TOTAL LAND AREA:	4.444 ACRES (APPROX.)
PREPARED BY:	DEPARTMENT OF PLANNING AND PERMITTING CITY AND COUNTY OF HONOLULU
PUBLIC HEARING:	PLANNING COMMISSION CITY COUNCIL

JUL 20 2016

JAN 25 2017

2016/Z-2

ORD. NO.: 17-9

EFF. DATE: APR 07 2017

EXHIBIT A

7

OFFICE OF THE
ASSISTANT REGISTRAR, LAND COURT
STATE OF HAWAII
(Bureau of Conveyances)

The original of this document was
recorded as follows:

RECORDED Doc T - 9935198
CT 1088122
March 15, 2017 10:45 AM

LAND COURT **REGULAR SYSTEM**

AFTER RECORDATION, RETURN BY MAIL () PICKUP (X) TO:

Robert Bruce Graham, Jr.
Ashford & Wriston, LLLP
First Hawaiian Center, Suite 1400
Honolulu, Hawaii 96813

Tele: (808) 539-0440

TITLE OF DOCUMENT:

**AMENDED AND RESTATED UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL ZONING**

PARTY(IES) TO DOCUMENT:

Roman Catholic Church In The State of Hawaii
1184 Bishop Street
Honolulu, Hawaii 96813

TAX MAP KEY NO. (1) 1-1-002:031
Transfer Certificate of Title No. 1088122

(This document consists of 6 pages.)

**AMENDED AND RESTATED UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL ZONING**

THIS INDENTURE (hereinafter referred to as this "**Unilateral Agreement**" or this "**Declaration**"), made this 14th day of March, 2017, by **ROMAN CATHOLIC CHURCH IN THE STATE OF HAWAII**, a Hawaii nonprofit corporation, the address of which is 1184 Bishop Street, Honolulu, Hawaii 96813 (hereinafter referred to as the "**Declarant**"),

WITNESSETH:

WHEREAS, the Declarant is the owner in fee simple of that certain parcel of land situated in Moanalua, City and County of Honolulu, State of Hawaii, consisting of approximately 4.444 acres, described as Tax Map Key No. (1) 1-1-002:031, and more particularly described in Exhibit A attached hereto and made a part hereof (the "**Land**"), and desires to make the Land subject to this Unilateral Agreement; and

WHEREAS, the Declarant plans to continue to operate a church and a school on the Land (the "**Project**"); and

WHEREAS, the City Council (the "**Council**") of the City and County of Honolulu (the "**City**"), pursuant to the provisions of the Land Use Ordinance ("**LUO**"), Revised Ordinances of Honolulu 1990 ("**ROH**") Section 21-2.80, as amended, relating to conditional zoning, is considering a change in zoning under the LUO of the Land from the F-1 Military and Federal Preservation District to R-5 Residential District (the "**zone change**"); and

WHEREAS, a public hearing regarding the change in zoning, Bill 49 (2016), was held by the Council on January 25, 2017; and

WHEREAS, the Council recommended by its Zoning Committee Report No. 66 (2017) that the said zone change be approved, subject to the following conditions contained in this Declaration to be made pursuant to the provisions of ROH Section 21-2.80, as amended, relating to conditional zoning, and to become effective on the effective date of the zoning ordinance approving the change of zoning (the "**Rezoning Ordinance**"); and

WHEREAS, Declarant previously executed that certain Unilateral Agreement And Declaration For Conditional Zoning dated February 16, 2017, and filed in the Office of the Assistant Registrar of Land Court of the State of Hawaii as Document No. T-9908316, duly noted on Transfer Certificate of Title No. 1088122 (the "**Original Declaration**"); and

WHEREAS, the fifth recital in the Original Declaration contains an erroneous reference to Zoning Committee Report No. 38, and should instead refer to Zoning Committee Report No. 66 (2017), as set forth above; and

WHEREAS, Declarant now wishes to amend and restate the Original Declaration in full for the purpose of correcting the mistaken recital and otherwise ratifying and confirming the Original Declaration;

NOW THEREFORE, the Declarant hereby covenants and declares as follows:

1. Affordable Housing. Prior to building permit approval for more than six residential dwelling units on the Land, the Declarant shall execute a binding agreement to participate in an affordable housing plan that is acceptable to the Department of Planning and Permitting of the City and County of Honolulu (“DPP”), in accordance with adopted rules. The agreement shall provide for no less than 30 percent of the total number of dwelling units constructed to be affordable housing units.

2. Flight Operations Disclosure. The Declarant shall inform all prospective purchasers, lessees, renters, or residential occupants of the Land of potential aircraft flight and airport activity and related impacts, including, but not limited to, noise, fumes, smokes, vibrations, and odors. The Declarant shall record the disclosure statement with the State of Hawaii Bureau of Conveyances or the State of Hawaii Land Court, or both, as appropriate, within 60 days from the effective date of the Rezoning Ordinance and provide a copy of the recorded document to the DPP for its records.

3. Compliance with Other Governmental Requirements. The Declarant acknowledges that approval of the zone change does not constitute compliance with other LUO or other governmental requirements. They are subject to separate review and approval. The Declarant shall be responsible for ensuring that any future development of the Land complies with all applicable LUO and other governmental provisions and requirements, including but not limited to all rules and regulations relating to flight operations in airspace above properties located within airport areas.

4. Annual Reports. On an annual basis, the Declarant shall submit a written status report to the DPP documenting its satisfaction of and/or describing its progress toward complying with each condition of approval for this zone change. The status report shall be submitted to the DPP by December 31 of each year until such time as the DPP has determined that all conditions of approval have been satisfied, or as necessary.

5. Noncompliance with Conditions. In the event of noncompliance with any of the conditions set forth herein, the Director of the DPP shall inform the City Council and may seek civil enforcement or take appropriate action to terminate or stop any future development of the Land until applicable conditions are met, including but not limited to revoking any permits issued under this zoning and withholding issuance of other permits related to the Project. Noncompliance also may be grounds for the enactment of ordinances making further zone changes, including revocation of the underlying zoning, upon initiation by the proper parties in accordance with the Revised City Charter.

NOW, THEREFORE, the Declarant hereby makes the following additional Declarations:

A. As used herein, references to a specific City department or agency shall be deemed to include a reference to any successor department or agency.

B. That the conditions imposed herein are reasonably conceived to fulfill public service demands created by the requested change in zoning and are rationally related to the objective of preserving the public health, safety and general welfare and the further implementation of the General Plan of the City and County of Honolulu.

C. That the development of the Land shall conform to the aforesaid conditions with the understanding that, at the request of the Declarant and upon the satisfaction of the conditions set forth in this Unilateral Agreement, the Department of Planning and Permitting may fully or partially release, as applicable, any of the foregoing conditions that have been fulfilled.

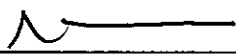
D. That if there are any conflicts between this Unilateral Agreement and any previous unilateral agreement(s) applicable to the Land, the terms and conditions of this Unilateral Agreement shall apply.

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that the conditions imposed in this Declaration shall run with the Land and shall bind and constitute notice to all the parties hereto and subsequent lessees, grantees, assignees, mortgagees, lienors, successors, and any other persons who have or claim to have an interest in the Land, and the City and County of Honolulu shall have the right to enforce this Declaration by rezoning, appropriate action at law or suit in equity against all such persons, provided that the Declarant or its successors and assigns may file a petition with the Department of Planning and Permitting for amendment or removal of any conditions or termination of this Declaration, such petition to be processed in the same manner as petitions for zone changes.

IN WITNESS WHEREOF, Declarant has executed this Amended and Restated Unilateral Agreement and Declaration for Conditional Zoning on the day and year first above written.

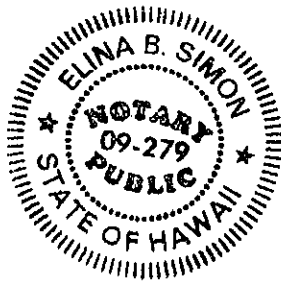
DECLARANT:

**ROMAN CATHOLIC CHURCH IN THE
STATE OF HAWAII**

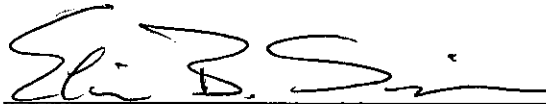
By 
(Rev. Msgr.) Gary L. Secor
Its Vice President

STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

On this 14TH day of March, 2017, before me personally appeared GARY L. SECOR, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



(Notary Stamp or Seal)



Name: Elina B. Simon

Notary Public, State of Hawaii

My commission expires: June 28, 2017

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: Amended and Restated Unilateral Agreement and Declaration for Conditional Zoning

Document Date: undated at time of notarization

No. of Pages: 6

Jurisdiction (in which notarial act is performed):

First Circuit



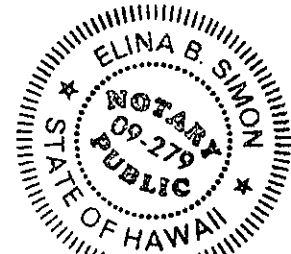
MAR 14 2017

Signature of Notary

Date of Notarization and
Certification Statement

Elina B. Simon

Printed Name of Notary



(Notary Stamp or Seal)

EXHIBIT A

Property Description

All of that certain parcel of Land situate at Moanalua, City and County of Honolulu, State of Hawaii, described as follows:

Lot 3943, consisting of approximately 4.444 acres, more or less, as shown on Map 750, as set forth in Land Court Order No. 188770 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application 1074, being the property covered by Certificate of Title No. 1088122 issued to the Roman Catholic Church in the State of Hawaii.

BEING the land conveyed to the Roman Catholic Church In The State Of Hawaii by instrument dated November 19, 2014 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. T9088458A.

TMK Oahu 1-1-002-031

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE 17-9

BILL 49 (2016)

Introduced: 08/08/16

By: ERNEST MARTIN – BY REQUEST


Committee: ZONING AND HOUSING

Title: A BILL FOR AN ORDINANCE TO REZONE LAND SITUATED AT MOANALUA, OAHU, HAWAII.

Voting Legend: * = Aye w/Reservations

09/07/16	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
11/02/16	COUNCIL	<u>M-2598</u> – APPROVED 120-DAY EXTENSION OF TIME. (DEADLINE: 11/03/16 + 120 DAYS) 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
01/04/17		<u>CC-7(17)</u> MENOR - BILL RE-REFERRED FROM COMMITTEE ON ZONING AND PLANNING TO COMMITTEE ON ZONING AND HOUSING.
01/14/17	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
01/19/17	ZONING AND HOUSING	CR-38(17) - BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING.
01/25/17	COUNCIL/PUBLIC HEARING	CR-38(17) ADOPTED. BILL PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING AND HOUSING. 8 AYES: ANDERSON, ELEFANTE, FUKUNAGA KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE. 1 ABSENT: OZAWA.
02/01/17	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
02/09/17	ZONING AND HOUSING	CR-66(17) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING.
02/22/17	COUNCIL	90-DAY EXTENSION OF TIME APPROVED. CR-66(17) AND BILL 49 (2016) DEFERRED TO NEXT COUNCIL MEETING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
03/22/17	COUNCIL	CR-66(17) ADOPTED AND BILL 49 (2016) PASSED THIRD READING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.


GLEN I. TAKAHASHI, CITY CLERK


RON MENOR, CHAIR AND PRESIDING OFFICER